

## MA Underground Storage Tank Regulation

### Summary of revisions (undergoing internal Agency review):

- **Clarified some definitions** [310 CMR 80.03]:
  - Changes to reflect common industry usage:
    - “Component” changed to “UST Component”,
    - “Emergency Shut-off Valve” changed to “Shear, Crash, or Impact Valve”
    - “Product Deliverer” changed to “Regulated Substance Deliverer”
  - Clarified “Repair” and “Replacement” so the terms apply to different and distinguishable actions.
  - Deleted “Threat of Release” and all references to this term. Will rely on the definition and requirements of the MCP for situations in which a regulated substance may be reportable under that regulation.
  - Added definitions for “Monitoring Device” and “Spill Bucket”
- **Deleted requirements for Airport Hydrant Fueling Systems** [310 CMR 80.04(3) and 310 CMR 80.19(3)].
- **Recordkeeping for facilities claiming an exemption for a *de minimis* concentration of a regulated substance:** documentation of status must be kept for as long as the exemption is claimed, rather than for the proposed period of four years [310 CMR 80.04(5)(c), 80.36(7)].
- **Timeframe for emptying UST systems used solely for emergency spill and overflow containment:** changed from 48 hours to 72 hours of the introduction of a regulated substance. [310 CMR 80.04(12)]. Also, the requirement to remove all regulated substance from the tank within this timeframe was de-coupled from the other requirements of 310 CMR 80.00 [310 CMR 80.04(12)].
- **Announced MassDEP inspections:** MassDEP will provide at least 48 hours notice of these inspections [310 CMR 80.13(3)]. Clarified that Owners and Operators do not have to provide access to any UST system or UST component that would only be visible for inspection if it were excavated [310 CMR 80.13(2)].
- **Notification to MassDEP of new UST systems:** Owners must notify MassDEP within 30 days of the initial *introduction of regulated substance* into an UST system, rather than the proposal of within 30 days of *installation of the UST system* [310 CMR 80.16(8)].
- **Siphon lines: clarified that siphon lines can be used, and identified the requirements that apply to them** [310 CMR 80.16(14), 310 CMR 80.18(2)(b), 310 CMR 80.19(3)].
- **Clarified leak detection requirements for:**
  - Regulated substance piping serving UST systems that were installed before January 1, 1989 [310 CMR 80.19(3)(c)], and
  - Tanks used for emergency generator engines and emergency generator engine-driven pumps installed before the effective date of the regulations [310 CMR 80.26(7) and (8)].

- **Clarified requirement for dispensers: continuously monitored sumps must be installed** when the product dispenser and the piping used to connect the product dispenser to the tank are replaced [310 CMR 80.20(1)(a)].
- **Allowed Operators who are authorized by the UST system Owner to update registrations** [310 CMR 80.23(1)(b)] **and to submit documents** [310 CMR 80.23(2)].
- **Changed requirement to notify MassDEP of a change in product** from the proposed seven days before the change to notification before the change (no set time period established) [310 CMR 80.23(2)(a) and 80.41(3)(b)].
- **Clarified Owner responsibilities when selling an UST system or UST Component:**
  - Limited requirements for transferring UST system and UST facility records to a new Owner to only the as-built plans of the UST system and as-built plans of the cathodic protection system (where Owners are required to keep these records) [310 CMR 80.23(4)].
  - Required the seller of an UST system to notify the purchaser of registration requirements [310 CMR 80.23(5)].
- **Clarified requirements for emergency response signage at UST facilities** [310 CMR 80.25(1)].
- **Clarified requirements for UST systems using Statistical Inventory Reconciliation (SIR) as their primary means of leak detection:**
  - The SIR vendor must be “qualified” rather than the proposed “trained” [310 CRM 80.26(6)(a)].
  - An in-tank monitor must be used to conduct SIR, carrying over a current DFS requirement. [310 CMR 80.26(6)(f)].
- **Tank and piping tightness testing standard:** requires that, by January 1, 2018, testing equipment must be capable of consistently detecting leaks at a rate of 0.05 gallons/hour. Testing equipment used until January 1, 2018 must be capable of detecting leaks at a rate of 0.1 gallons/hour. [310 CMR 80.32(1) and (2)].
- **Clarified requirement for tanks that have RELEASED regulated substance:** tanks must be emptied within 24 hours of obtaining knowledge of the release, rather than being taken temporarily out-of-service as proposed [310 CMR 80.33(1) and (4)]. If the Owner wants to repair the tank, repairs must be completed within 30 days, or the tank must be taken “temporarily out-of-service”. If the tank is not repaired, it must be removed or permanently closed within those 30 days.
- **Clarified requirement for tanks that have had LEAKAGE of a regulated substance:** tanks must be emptied within 72 hours of obtaining knowledge of the leakage [310 CMR 80.33(2) and (4)], rather than being taken temporarily out-of-service as proposed. If the Owner wants to repair the tank, repairs must be done within 30 days, or the tank must be taken “temporarily out-of-service”. If the tank is not repaired, it must be removed or permanently closed within those 30 days.
- **Clarified requirements for piping that is the source of a release or leakage of regulated substance:**

- Piping (or the portion of the piping) must be immediately isolated, and emptied, and must remain empty until it is repaired or replaced, or until the UST system is permanently closed or removed [310 CMR 80.33(3)].
  - If a repair or replacement cannot be done within 30 days of identifying the need for it, MassDEP must be notified in writing of the delay and informed of the schedule for completing the repair/replacement. MassDEP approval of an extended schedule is not required [310 CMR 80.33(4)].
- **Revised delivery prohibition requirements** to allow MassDEP to authorize delivery of regulated substance to an UST system with a delivery prohibition order so that compliance testing can be conducted [310 CMR 80.48].
- **Revised Financial Responsibility requirements:**
  - Deleted requirements for annual submittal of Financial Responsibility documents to MassDEP when relying on insurance, surety bonds, letters of credit, and trusts. Documents must be provided to the Department when requested. [310 CMR 80.58(1)].
  - Submittal of documents demonstrating qualifications for use of financial tests of self-insurance and corporate guarantees is required when updating registrations [310 CMR 80.58(1) and (2)].

**No changes in response to comments (undergoing internal Agency review):**

- Schedule for upgrading turbine sumps: request to push deadline beyond 2019 was not accepted.
- Allow “seasonal use” tanks to forgo monthly inspections and to contain regulated substance in their “off season”. This change was not accepted because releases and/or leakage that develop in these UST systems during their “off season” may not be discovered for several months.
- Leak detection requirements for single-walled piping installed between 1989-1999 (request to keep the current practice of using mechanical LLD plus annual tightness testing). Draft regulation added quarterly monitoring of secondary containment ports, which will remain in the rule.
- Monthly spill bucket inspections aren’t needed due to Stage I inspection requirements. This requirement was kept because the weekly inspection requirement that was proposed in the Stage I draft regulation was removed.
- Testing of overfill protection equipment is not needed. This change was not accepted because MassDEP believes that it is important to ensure that this equipment is properly working by testing it according to the manufacturer’s instruction, or (in the absence of those instructions) annually.
- Allow a “Return to Compliance Plan” for a Compliance Certification to note that it is not possible to return to compliance and to not commit to remedial action. This change was not made because 310 CMR 80.34(2) allows Return to Compliance Plans to identify actions that will be taken to ensure that observed non-compliance does not recur in the future, and recognizes that some types of non-compliance cannot be remediated retrospectively (e.g., failure to conduct monthly inspections). MassDEP will clarify the requirements for Return to Compliance Plans through guidance to assist the regulated community.

September 10, 2014, UST, Stage I&II Stakeholder Information Meeting

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- Conflicting comments on the stringency of the requirements for Third Party Inspectors. Some commenters thought they were too stringent while others thought they were too loose. The proposed language is consistent with Third Party Inspector requirements that were recently adopted by the Solid Waste Program (310 CMR 19.000): the proposed wording remains in the final regulation.

Several commenters noted that the draft regulation was hard to follow, particularly in multi-page sections where headings were not repeated. Please note that the draft and final regulations follow the MA Secretary of State's requirements (including format) for publication in the "Massachusetts Register". However, when the final regulation is published, MassDEP will post another version on its web site that will start each section on a new page, allowing the insertion of section titles in page headings and a Table of Contents with headings linked to the beginning of each major section, which should make the document easier to follow.